



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2019-0064]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on September 3, 2019, Burlington Northern Santa Fe Railway (BNSF) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 232.305(b)(2). FRA assigned the petition Docket Number FRA-2019-0064.

Specifically, BNSF requests the same regulatory relief provided to the Union Pacific Railroad Company (UP) in Docket Number FRA-2007-28454. Current regulations require railroad carriers to perform a single car air brake test (SCABT) when a car is on a shop or repair track, as defined in 49 CFR 232.303(a), for any reason and has not received a SCABT within the previous 12-month period. This also includes cars on an in-train wheel replacement track that do not require wheel replacement (if there are no FRA defects present), but may otherwise have an air date indicating it has not received a SCABT within the previous 12-month period and is in compliance with all other requirements of 49 CFR 232.305. BNSF requests relief through a change in repair track designation per 49 CFR 232.303. Specifically, BNSF requests that the in-train wheel replacement track not be designated a shop or repair track. However, BNSF proposes to continue performing a SCABT on any car undergoing an in-train wheelset replacement

because of an FRA-condemnable wheel defect as defined in 49 CFR 232.305(b)(5).

BNSF states that this relief would serve safety and the public good by reducing the number of wheels in service which have elevated impact readings and will therefore have a long-term positive impact on rail integrity. BNSF has an extensive wayside detector network with over 4,000 detectors with varying technologies utilized to identify deteriorating component performance. Wheel Impact Load Detectors (WILD) are a part of this network that focus specifically on car and locomotive wheels that have impact readings indicating surface defects. BNSF further states that the approval of this request will add to the total number of elevated kip reading wheels removed and not adversely impact any other safety related initiatives with respect to cars.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue, SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,

Chief Safety Officer.

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